



DEC 17 2007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/20/07

MICHAEL A. CARDODOZ
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

KARL J. ASHANTI
Assistant Corporation Counsel
Phone: (212) 227-0414
Fax: (212) 788-9776
kashanti@law.nyc.gov

MEMO ENDORSED

December 17, 2007

Applications granted.
SO ORDERED:

W.H. Pauley

WILLIAM H. PAULEY III U.S.D.J.

12/19/07

BY FACSIMILE

Honorable William H. Pauley
United States District Judge
United States Courthouse
Southern District of New York
500 Pearl Street, Room 2210
New York, New York 10007

Re: Darryl Nicks v. City of New York, et al.
07 CV 10596 (WHP)(THK)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to represent defendant City of New York in the above-referenced matter. I write to respectfully request an enlargement of time from Tuesday, December 18, 2007 until Monday, February 18, 2008, for the defendant to answer or otherwise respond to the complaint. Plaintiff's counsel consents to this application.

In the complaint, plaintiff alleges, *inter alia*, that, on November 22, 2006, he was subjected to an unconstitutional strip search by correction officers of the New York City Department of Correction ("DOC") upon his admission to a DOC facility on Rikers Island.

There are several reasons for seeking an enlargement of time. First, in accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. Therefore, this office will be forwarding to plaintiff for execution a release for her medical records. Also, as the complaint does not indicate the disposition of the criminal charges but infers that plaintiff was a pre-trial detainee while incarcerated at DOC, this office will be forwarding to plaintiff for execution a consent to the designation of the Corporation Counsel as plaintiff's agent for release of records sealed pursuant to New York Criminal Procedure Law §160.50. Pursuant to that statute, the official records concerning plaintiff's arrest, including many of DOC's records, may be sealed. If the records are sealed, we will not be able to obtain them from DOC or any other source

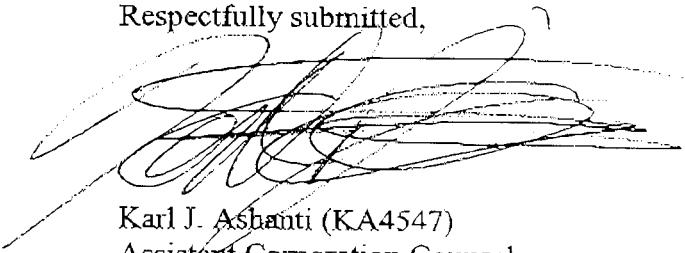
without the 160.50 designation. Without the medical and DOC records, defendant cannot properly assess this case or respond to the complaint.

Second, defendant City of New York appears to have been served with process. However, upon information and belief, the individual defendants have not yet been served. The extension should allow time for plaintiff to serve the individual defendants with process and for this office to confirm the validity of the purported service, and to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent all or some of the individual defendants. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made. Accordingly, we respectfully request that defendant's time to answer or otherwise respond to the complaint be extended to February 18, 2008.

Thank you for your consideration of this request.

Respectfully submitted,



Karl J. Ashanti (KA4547)
Assistant Corporation Counsel

cc: Michael O. Hueston, Esq. (by facsimile)



Law Department
Office of the Corporation Counsel of the City of New York
100 Church Street
New York, NY 10007

Facsimile Transmission

RECIPIENT	COMPANY	FAX NO.	PHONE NO.
Hon. William H. Pauley	U.S. District Court -- SDNY	(212) 805-6390	(212) 805-6387
FROM:	Karl J. Ashanti	DATE:	December 17, 2007

You should receive 3 page(s) including this one.
If you do not receive all pages, please call

This facsimile contains CONFIDENTIAL INFORMATION which may also be LEGALLY PRIVILEGED. It is intended only for use of the addressee(s) named above. If you are neither the intended recipient of this facsimile nor the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that disseminating or copying this facsimile is prohibited. If you have received this facsimile in error, please notify this office by telephone and return the original to the address set forth by the United States Postal Service. Thank you.

Message:

Re: Darryl Nicks v. City of New York, et al.
07 CV 10596 (WHP)(THK)